

NEWMAN & GREENBERG LLP

ATTORNEYS

950 THIRD AVENUE

NEW YORK, N.Y. 10022

TEL: (212) 308-7900

FAX: (212) 826-3273

info@newmangreenberg.com

RICHARD A. GREENBERG

STEVEN Y. YUROWITZ

WILLIAM J. DOBIE

GUSTAVE H. NEWMAN (RET.)

January 16, 2015

By ECF

Hon. Eric N. Vitaliano
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *United States v. Discala, et al.*,
Docket No. CR-14-399 (ENV)
**(Status of Discovery, and Defendant Shapiro's Request
for a Three-Month Adjournment to Permit Government
to Complete Discovery and Defendants to Review It)**

Dear Judge Vitaliano:

I am co-counsel with David Gourevitch for Ira Shapiro, one of the defendants in the above-entitled criminal matter. In advance of the scheduled status conference to be held one week from today, on January 23, 2015, I am writing to apprise the Court of the status of discovery and its resulting impact on scheduling.

A. Government Discovery. By letter dated January 6, 2015, the government informed defense counsel that it was providing to defense counsel, through the government's copying vendor, approximately 165,000 additional documents in discovery, bringing the total government discovery production to date to more than 500,000 pages of documents. Immediately upon receiving the government's January 6 letter, we contacted the government's vendor (First Choice) and ordered the disk containing the new production. The vendor informed us that we should not expect to receive the disk until the end of the week of January 12th at the earliest, and as of this writing we have not yet received the new production.

B. A Terabyte and More of Discala Material. Early in this case, the government informed defense counsel that it had seized some 93 binders of material from lead defendant Discala upon his arrest. Mr. Discala indicated his intention to assert the attorney-client privilege as to at least some portion of those documents, and he was given ample opportunity to review

Hon. Eric N. Vitaliano
January 16, 2015
Page 2

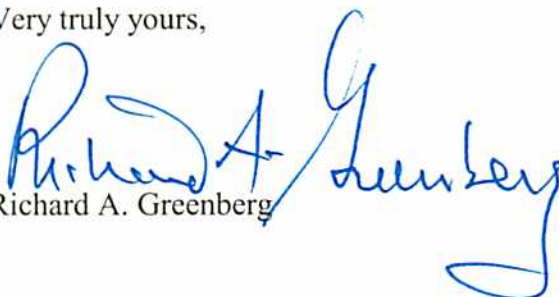
the seized material and to assert his privilege. More recently, we have been informed by the government and by counsel for Mr. Discala that the government seized an additional terabyte of data which Mr. Discala has been given an opportunity to review and to assert his privilege if he believed one existed.¹ We have not yet received from the government the terabyte of additional Discala discovery material to which we are entitled under Rule 16. Indeed, in our understanding, even the government has not yet been able to review the terabyte of data seized from Mr. Discala because of the privilege issue.

C. A Three Month Adjournment Is Needed. In short, through no fault of its own, the government has just produced an enormous amount of new discovery material which we have not yet received from the government's vendor, let alone had a chance to review, and the government has yet to produce Discala discovery material many times more than what it has produced so far. The delay is due in part to the complex nature of this case, a finding this Court made at the first appearance with the consent of all parties, and the sheer volume of documents and other discovery material, and in part to Mr. Discala's claim of privilege which apparently has yet to be resolved.

In our view, no useful purpose would be served by setting a motion or trial schedule at the appearance on January 23. Instead, we will request at the appearance another three month adjournment to permit the government to complete its discovery obligations, the overwhelming bulk of which has not yet been provided to the defense. On the assumption that the government is able to complete its discovery obligations in the very near future, we would anticipate that the Court and the parties would be in a position on the requested adjourned date — April 23, 2015 — to discuss a realistic motion and trial schedule in this case.

Thank you for your consideration of these matters.

Very truly yours,


Richard A. Greenberg

cc: All Counsel by ECF

¹ A terabyte is roughly a thousand gigabytes, or approximately 20 times the volume of discovery material the government has provided to date.